

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KEVIN S. CLAPP,)	
Plaintiff,)	
)	
V.)	Civil Action No. 18-10426-ADB
)	
JOHN FANNING, BRUCE TOBIN,)	
SCOTT KEARNS, BRIAN TULLY,)	
and BRIAN BROOKS,)	
Defendants.)	

TRIAL BRIEF OF THE DEFENDANTS

On Thursday, February 14, 2022 the Defendants filed a Pre-Trial Memorandum (D.N. 237). This Trial Brief supplements that filing and complies with the Court's order of February 17, 2022 (D.N. 241) directing the parties to file proposed voir dire, jury instructions, and any special verdict form by March 15, 2022.

(1) any proposed questions for the voir dire examination of the jury;

See Docket Number 251.

(2) requests for instructions to the jury with citation to supporting authority;

See Docket Number 252.

(3) any proposed interrogatories or special verdict form;

See Docket Number 253.

(4) a list of agreed-upon exhibits and any exhibits that are objected to.

Defendants' Proposed Exhibits:

1. Various police reports from the arrest of Kevin Clapp (Bate Stamped Tpr. Kearns 1–42).
2. Photographs of 79 Brookville Avenue, Brockton, Massachusetts 02302 (Ex. 27, Plaintiff's Deposition).
3. Brewster Ambulance Trip Sheet from MSP/Middleborough to Morton Hospital (Bates Stamp Tpr. Kearns 43–63).

4. *Morton Hospital Records (Bates Stamp Tpr. Kearns 108-131).
5. *Records from Brockton Hospital (Bates Stamp Tpr. Kearns 373–556).
6. *Records from Pembroke Hospital (Bates Stamp Tpr. Kearns 132–156).
7. *Records from Arbor Hospital.
8. *Records from George McManama Jr., M.D. (Bates Stamp Tpr. Kearns 64–75).

Exhibits Objected to by Plaintiff:

- A. Transcript of the interview of Leo Murray.
- B. Affidavit in Support of Arrest Warrant.
- C. Arrest Warrant.
- D. Transcript of phone messages of Kevin Clapp to Attorney Brian Rogal.
- E. Anti-Harassment Order issued against Kevin Clapp (G.L. c. 258E).
- F. Plaintiff's Responses to the Defendants' Interrogatories and Requests for Production of Documents.

The above listed proposed exhibits were disclosed by the Defendants to the Plaintiff by way of Defendants' Pre-Trial Memorandum (D.N. 237) filed on February 14, 2022. The Defendants supplement their exhibit list as follows:

9. Booking photograph of Kevin Clapp (previously disclosed as a photograph embedded within a report (Tpr. Kearns 000001). See Exhibit 1 above.
10. Various photographs of the clothing the Plaintiff was wearing at the time of his arrest on March 8, 2016.

*The parties will be exchanging redacted copies of these documents in an effort to reach an agreement on their admissibility. Failing an agreement, the parties have reserved all rights to object to these documents, except as to authenticity.

Respectfully submitted,

DEFENDANTS,

By one of Defendants' attorneys,
ROGAL & DONNELLAN, P.C.

/s/ Joseph G. Donnellan
BBO# 558060
100 River Ridge Drive
Norwood, MA 02062
(781) 255-1200
JDonnellan@RogalandDonnellan.com

CERTIFICATE OF SERVICE

I, Joseph G. Donnellan, hereby certify that I served a copy of the foregoing DEFENDANTS' TRIAL BRIEF to all counsel of record, via ECF, and to those not so registered via 1st Class U.S. Mail, postage prepaid this 15th day of March, 2022.

/s/ Joseph G. Donnellan
Joseph G. Donnellan